IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 132 OF 2005

1. Mrs. Ana Lourdes Rosaria
   Aguiar and her husband

2. Mr. Damaciano Santan
   Fernandes, both r/o
   Telaulim, Navelim, Salcete,
   Goa,

3. Mr. Anthony Aguiar,

4. Mr. Lawrenco Aguiar,

5. Mr. William Grace Aguiar,
   all 3 r/o Ponda, Goa, near
   K.T.C. Bus Stand, and all
   5 legal representatives of the
   deceased Mr. Xavier Aguiar,

6. Smt. Rosa Filipa Gomes e
   Aguiar, aged 49 years, r/o
   House no.44, Forest Colony,
   Ponda, Goa. ... Petitioners.

Versus

1. The Chief Secretary, Government
   of Goa, Secretariat, Panaji,

2. The Conservator of Forests,
   Office of the Conservator,
   3rd Floor, Junta House,
   Panaji-Goa,

3. The Dy. Conservator of Forests,
   Cashew Division, Forest
   Colony, Ponda, Goa,

4. The Dy. Collector, Office
of the Dy. Collector, Quepem,
Goa,

5. The Director of Land Survey &
Records, Panaji, Goa,

6. The Mamlatdar of Sanguem,
Office of the Mamlatdar,
Sanguem, Goa,

7. The Mamlatdar of Record of
Rights, Fatorda, Margao,
Goa,

8. Shri Gopinath Anant Naik,
major and his wife,

9. Smt. Leela G. Naik,
major, both residents of Dullai,
Dharbandora, Sanguem- Goa.

10. Shri Sajaro Ladu Shetkar,
major and his wife,

11. Smt. Rukmini S. Shetkar,
major, both residents of Dullai,
Dharbandora, Sanguem- Goa.

12. Shri Dattaram Pandu Naik,
major, and his wife,

13. Smt. Radha D. Naik,
major, both residents of Dullai,
Dharbandora, Sanguem- Goa.

14. Smt. Assumati Govind Naik,
widow of Govind, resident of
Dullai, Sanguem- Goa, (since
deceased), represented by L.Rs.:

14.a. Shri Babuli Govind Naik,
aged 40 years, and his wife,

14.b. Smt. Vinanti Babuli Naik,
aged 35 years, both residents
of House No.125, Dabal,
Kirlapal, Sanguem- Goa.

14.c. Smt. Jaishree Shankar Naik,
alias Parvati, aged 50 years,
and her husband,

14.d. Shri Shankar Naik,
aged 60 years, both residents of
Kudnem, Assonora, Mapusa- Goa.

14.e. Smt. Kanchan Rama Naik,
alias Sita, aged 35 years,
and her husband,

14.f. Shri Rama Naik,
aged 60 years, both residents of
Talauli, Durbhat, Ponda- Goa.

15. Shri Satyavan Kashinath Naik,
major, and his wife,

16. Smt. Savitri S. Naik,
major, both residents of Dullai,
Dharbandora, Sanguem- Goa.

17. Shri Yeshwant Gopinath Naik,
major, and his wife,

18. Smt. Dhashavati Y. Naik,
major, both residents of Dullai,
Dharbandora, Sanguem- Goa.

19. Shri Shankar Gopinath Naik,
major, and his wife,

20. Smt. Kamlavati S. Naik,
major, both residents of Dullai,
Dharbandora, Sanguem- Goa.

21. Gulabi Mosso Naik,
major, resident of Dullai,
Dharbandora, Sanguem- Goa.

22. Baby Mosso Naik,
major, resident of Dullai,
Dharbandora, Sanguem- Goa.

23. Mahadev Mosso Naik,
major, resident of Dullai,
Dharbandora, Sanguem- Goa.

24. Mohan Mosso Naik,
major, resident of Dullai,
Dharbandora, Sanguem- Goa.

25. Mohidas Mosso Naik,
major, resident of Dullai,
Dharbandora, Sanguem- Goa.

26. Maheshwar Mosso Naik,
14 years old, resident of Dullai,
Dharbandora, Sanguem- Goa.

27. Manoj Mosso Naik,
aged 10 years, resident of Dullai,
Dharbandora, Sanguem- Goa. ..... Respondents

Mr. F. M. Reis, advocate for the petitioners.

Mr. S. S. Kantak, Advocate General with Ms. G. Bhonsale, Additional Government Advocate for the respondent nos. 1 to 7.

Mr. G. M. Kudchadkar, advocate for respondent nos.8 to 13, 14(a) to 14(f), 15 to 27.

ORAM : R. M. LODHA, J.

DATE : 2nd September, 2005.

ORAL JUDGMENT

Heard. Rule.

2. The advocate on record for respondent nos. 1 to 7 waives service. Mr. Kudchadkar waives service for respondent nos.8 to 27.

3. The learned Advocate General and the learned counsel for respondent nos.8 to27 fairly conceded that the view of the 1st Additional District Judge, South Goa at Margao that the appeal registered as Regular Civil Appeal No.126/2003 could not be entertained and decided by that Court was not the correct view in the light of the existing legal position.

4. In this view of the matter, the impugned Order dated 9th February, 2005, cannot be sustained.

5. Consequently, the Writ Petition is allowed. The Order dated 9th February, 2005 is quashed and set aside. Regular Civil

Appeal No.126/2003 is restored to the file of 1st Additional District Judge, South Goa at Margao for hearing and disposal according to law.

6. No costs.

R. M. LODHA, J.

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